

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	SPECIAL MASTER COHEN
THIS DOCUMENT RELATES TO:)	
<i>“All Cases”</i>)	
)	DISCOVERY RULING NO. 14, PART 13
)	REGARDING WALMART PRIVILEGE
)	CLAIMS

AGENDA ITEM NO. 254

During Track One discovery, defendant Walmart withheld production of certain documents based on attorney-client privilege. These included a host of documents associated with Walmart's effort to create an enhanced SOMS (Suspicious Order Monitoring System). Plaintiffs challenge a number of those privilege designations. The parties agreed to submit a sampling of the challenged documents to the Special Master for *in camera* review, and submitted letter briefs in support of their positions. The undersigned also requested and received additional *ex parte* explanations from Walmart regarding certain documents. Having considered these submissions carefully, the Special Master now rules on the challenged documents.

I. Legal Standards.

The Special Master earlier set forth the applicable legal standards and incorporates them herein by reference.¹

¹ See docket nos. 1321, 1353, 1359, 1380, 1387, 1395, 1498, 1593, 1610, 1666, 1678, 2968, 2979, & 3071.

II. The Documents.

The documents in question are, by and large, draft and final presentations made to Walmart's Controlled Substances Advisory Panel (the "Panel") detailing progress in the development of Walmart's enhanced SOMS. After careful review of these documents and the context in which they were created and shared, and *mindful that, in the main, the substance of the final presentations either has already been produced or will be produced in discovery in other documents*, the Special Master concludes that all of the challenged documents are entitled to the protection of attorney-client privilege.

Accordingly, the Special Master rules as shown in the chart below.

Document Number	Date	Special Master Ruling
WMT_PRIV_00000101	4/15/15	Privilege applies and document may be withheld.
WMT_PRIV_00000131	8/31/15 – 9/8/15	Privilege applies and document may be withheld.
WMT_PRIV_00000135	10/13/15 – 10/14/15	Privilege applies and document may be withheld.
WMT_PRIV_00000138	11/10/16 – 11/16/16	Privilege applies and document may be withheld.
WMT_PRIV_00000213	12/5/13	Privilege applies and document may be withheld.
WMT_PRIV_00000228	8/16/13	Privilege applies and document may be withheld.
WMT_PRIV_00000229	6/17/14	Privilege applies and document may be withheld.
WMT_PRIV_00000233	1/9/14	Privilege applies and the document may be withheld.
WMT_PRIV_00000234	2/15/14	Privilege applies and document may be withheld.
WMT_PRIV_00000235	2/20/14	Privilege applies and document may be withheld.
WMT_PRIV_00000255	12/5/13	Privilege applies and document may be withheld.

WMT_PRIV_00000282	4/24/14	Privilege applies and document may be withheld.
WMT_PRIV_00000386	2/20/14	Privilege applies and document may be withheld.
WMT_PRIV_00000400	5/21/15	Privilege applies and document may be withheld.
WMT_PRIV_00000401	6/10/15	Privilege applies and document may be withheld.
WMT_PRIV_00000443	5/13/14	Privilege applies and document may be withheld.
WMT_PRIV_00000571	2/14/14	Privilege applies and document may be withheld.
WMT_PRIV_00001045	6/18/14	Privilege applies and document may be withheld.
WMT_PRIV_00001105	2/15/14	Privilege applies and document may be withheld.
WMT_PRIV_00001131	1/9/14	Privilege applies and document may be withheld.
WMT_PRIV_00001132	4/9/15	Privilege applies and document may be withheld.
WMT_PRIV_00001133	10/21/15	Privilege applies and document may be withheld.
WMT_PRIV_00001143	2/20/14	Privilege applies and document may be withheld.
WMT_PRIV_00001163	2/17/14 – 2/18/14	Privilege applies and document may be withheld.
WMT_PRIV_00001164	10/20/15	Privilege applies and document may be withheld.

III. Objections.

Any party choosing to object to any aspect of this Ruling must do so on or before
Wednesday, April 8, 2020.

RESPECTFULLY SUBMITTED,

/s/ David R. Cohen
David R. Cohen
Special Master

Dated: April 2, 2020